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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
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Item 4 of the provisional agenda
Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

List of issues in relation to the combined second and third periodic reports of the Cook Islands

Constitutional and legislative framework

1. In its common core document, the State party noted that article 64 of the Constitution of the Cook Islands provided for the fundamental rights and freedoms of an individual, without discrimination on the grounds of race, national origin, colour, religion, opinion, belief or sex (see HRI/CORE/COK/2015, para. 83). In accordance with the State party's obligations under articles 1 and 2 (b) of the Convention, and in line with target 5.1 of the Sustainable Development Goals, to end all forms of discrimination against all women and girls everywhere, please indicate any legislation or other binding framework to promote, enforce and monitor equality and the constitutional principle of non-discrimination on the basis of sex, including direct and indirect discrimination in the private and public spheres and intersecting forms of discrimination, in all areas covered by the Convention.

2. According to the common core document, in order for an individual to claim the rights protected by international human rights instruments, those rights must be incorporated into domestic legislation (HRI/CORE/COK/2015, para. 137). Please indicate whether the law reform programme described in the combined second and third periodic reports of the State party includes full incorporation of the Convention into the national legal system, and specify the timeline for its completion (CEDAW/C/COK/2-3, para. 10).[1] Please provide details on how the legislative amendments and the draft legislation referred to in paragraphs 10 and 11 reflect the principles of the Convention.

Note: The present document is being circulated in English, French and Spanish only.

[1] Unless otherwise indicated, paragraph numbers refer to the combined second and third periodic reports of the State party.

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Access to justice

3. Please indicate whether the women-focused legal aid programme launched in 2015 is available to women who wish to raise claims of discrimination or to enforce their rights to equality (paras. 15 and 293). Please also provide information on any instances in which the provisions of the Convention have been invoked by individuals, applied directly or referred to in court proceedings in the State party.

National machinery for the advancement of women

4. According to the combined second and third reports of the State party, efforts to mainstream gender at the institutional level, including ensuring the implementation of the national policy on gender equality and the empowerment of women and the accompanying strategic plan of action (2011–2016), are constrained by a lack of resources and technical capacity (para. 20). Please indicate whether the Division for Gender and Development is the entity tasked with including a gender perspective in all policies and programmes of the State party and how the State party is meeting the challenge of equipping the Division with the authority, capacity and resources necessary to fulfil its mandate, including the implementation of the national policy on gender equality and the empowerment of women. Please describe the placement of the Division in the ministerial hierarchy and provide information on the outcome of any assessment conducted on the effectiveness of the national policy and the national steering committee in the implementation of the six priority outcomes defined in the policy, including the elimination of violence against women.

5. Please indicate whether the Office of the Ombudsman, established under the Ombudsman's Act 1984, is mandated to accept complaints and investigate allegations of discrimination on the basis of sex. Please also provide an update on progress made towards establishing a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

Temporary special measures

6. Please provide the Committee with an update on progress made, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures, in establishing temporary special measures to accelerate the full and equal participation of women in all areas in which they are disadvantaged or underrepresented, including in political processes, decision-making positions in education and employment sectors that are predominantly occupied by men.

Stereotypes

7. In view of the previous recommendations of the Committee (see CEDAW/C/COK/CO/1, para. 23), please provide detailed information on the specific strategies in place, including sustained awareness-raising measures, to counter stereotypical attitudes that are discriminatory against women, including with regard to women and girls who experience multiple forms of discrimination owing to their age, disability or other characteristics, and to enhance the positive and non-stereotypical portrayal of women. Please provide specific information on the State party's efforts to systematically address gender stereotypes in the media. Please also describe any efforts undertaken to promote the engagement of men and boys in raising awareness of the extent of violence against women in the State party.

Gender-based violence against women

8. In accordance with the State party's obligation under the Convention, and in line with target 5.2 of the Sustainable Development Goals, to eliminate all forms of violence against all women and girls in the public and private spheres, please provide updated information on the steps taken to increase the protection of women and children, including by criminalizing marital rape and expanding the legal definition of domestic violence through, in particular, the enactment of the family law bill and the amendment of the Crimes Act 1969.

9. In view of the outcome of the 2013 survey noting the high prevalence of violence against women in the State party, please indicate whether a comprehensive strategy is in place to address all forms of violence against women and any efforts undertaken to raise public awareness that all such forms of violence, including sexual harassment, domestic violence and marital rape, are forms of discrimination under the Convention.

10. Please describe the outcome of any assessment conducted on the effectiveness of the gender equality and empowerment project in strengthening capacity for the elimination of violence against women, including the training of relevant personnel, in particular health and law enforcement personnel, to identify women who are victims of gender-based violence and on the guidelines for responding to intimate partner violence and sexual violence against women and girls (para. 94). Please describe in detail the availability, accessibility and effectiveness of protection orders, legal aid and judicial recourse and enforcement measures for victims of sexual and gender-based violence, including domestic violence. In addition, please provide data on the extent and forms of all cases of violence perpetrated against women in the State party, including domestic violence, rape and sexual harassment.

Trafficking and exploitation of prostitution

11. The Committee notes that the Crimes Act 1969 criminalizes soliciting and living off of sex work (para. 168). It takes note of the State party's statement that it is currently reviewing that Act, with a view to ensuring compliance with the Convention (para. 169). Please provide an update on progress made in that regard and elaborate on the availability of exit programmes for women in prostitution, any awareness-raising measures taken to eliminate the demand for prostitution and the objectification of women and girls, and the resources allocated to those measures. In addition, please provide information on the incidence of sex tourism and of trafficking in the State party, in particular as those phenomena affect women and girls, and any measures taken to combat them.

Participation in political and public life

12. Please provide information on any measures taken to introduce a system of quotas with a view to reaching a minimum of 30 per cent representation of women in Parliament and in local governance, especially in island governments, among mayors and elected constituency councillors and in the system of traditional chieftainship (*ariki*, Koutu Nui and *aronga mana* (*mataiapo*)). Please also provide an update to the Committee on measures taken to address the barriers to women's participation in political and public life listed in paragraph 145 of the report, including legislative and policy measures, as well as building the capacity of government officials and raising their awareness of the necessity of temporary special measures to promote the equal representation of women and men in leadership and decision-making at all levels and in all areas of political and public life and to develop women's leadership capabilities to assume those roles. Please also provide information on whether the State party

envisages a review of the Electoral Act 2004 with a view to increasing the representation of women in Parliament (para. 173).

Education

13. Please indicate what measures have been taken to retain girls, especially those from the outer islands, in school and to provide alternatives to formal education for those who have left school early. Please also describe the measures envisaged for increasing the participation of women and girls in non-traditional areas of vocational training and in courses in the fields of technology and science at the secondary and tertiary levels (para. 208). Please inform the Committee about measures taken by the State party to increase women's access to tertiary education outside of the State party and to encourage distance learning through technological means.

14. Please provide updated information on progress made towards ensuring mandatory, age-appropriate education on sexual and reproductive health and rights at all levels of education in the State party. Please also provide data on the rate of school dropout among girls owing to pregnancy and on the forms of support in place to ensure adherence to the provisions of the Education Act 2012 regarding the return of adolescent mothers to school to complete their compulsory education (para. 209).

Employment

15. Please describe the mechanism in place to facilitate the resolution of complaints of discrimination against women in employment, including complaints of sexual harassment made under the Employment Relations Act 2012 and the public service code of conduct policy 2009 (paras. 51 and 76). Please indicate whether the State party intends to increase the duration of paid maternity leave from 6 to 12 weeks, in line with the International Labour Organization Maternity Protection Convention (Revised), 1952 (No. 103). In line with target 5.4 of the Sustainable Development Goals, to recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies, and the promotion of shared responsibility within the household and the family as nationally appropriate, please indicate whether the State party plans to establish affordable childcare facilities for children under 3 years of age (para. 53). In addition, please describe any measures taken by the State party to encourage women's participation in occupational areas of the formal labour market that have traditionally been occupied by men.

Health

16. In line with the statement by the Committee on sexual and reproductive health and rights (A/69/38, part three, annex II), please describe any steps taken to fully decriminalize abortion and to expand the grounds for which it is legal to include, at a minimum, in cases of rape, incest or severe fetal impairment. Please also describe the protocols in place to ensure that all women who meet the legal criteria for an abortion are able to gain access to that service in the State party. Please provide information on access to safe post-abortion care of good quality, including in cases of abortion that are not legal under the State party's legislation.

17. The Committee notes the high level of adolescent pregnancy, with 18 per cent of women having given birth to at least one child by the age of 19, and the high rate of sexually transmitted infections among women and girls between 15 and 19 years of age (39.8 per cent in 2006) (paras. 58 and 135). In that regard, please indicate whether the State party intends to legalize access to contraceptives for adolescents under the age of 16. Please also provide details on the programmes, mentioned in paragraph 58 of the report, to reduce the number of early pregnancies and on the services provided to ensure that adolescent mothers receive the support they need in

terms of nutrition, health and psychosocial care. Please provide information on the existence of a national mental health policy and indicate whether any measures have been taken to evaluate its impact, in particular in providing the specific support needed by women and girls.

Rural women

18. In line with general recommendation No. 34 (2016) on the rights of rural women, please provide information on the effectiveness of the gender equality and empowerment project and the national sustainable development plan in increasing the participation of women, in particular those in the outer islands, in political and public life, enhancing their access to justice and providing them with protection, support and assistance when they are subjected to gender-based violence, and ensuring that they have access to employment and land ownership and management (paras. 93 and 105).

Women with disabilities

19. Please provide information on the effectiveness of the policy on disability-inclusive development (2014–2019) in removing all barriers faced by women with disabilities, specifically in the labour market and health care and educational institutions, preventing violence against women with disabilities and adapting centres that provide aid and support for victims of violence to the needs of women with disabilities (para. 126).

Disaster risk reduction and climate change

20. In line with target 13.3 of the Sustainable Development Goals, to improve education, awareness-raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning, and target 13.b, to promote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries and small island developing States, including focusing on women, youth and local and marginalized communities, please indicate any efforts made by the State party to ensure the following:

(a) That the development and implementation of policies and programmes relating to the mitigation of disasters (including cyclones and floods), disaster preparedness, post-disaster management, response to disasters and the impact of climate change and other emergencies are based on comprehensive analysis of the gender dimension;

(b) That the equal participation of women and girls, in particular those who reside in low-lying coastal areas, in policymaking and programme-making processes in that regard is guaranteed (para. 281);

(c) That women are employed in engineering, scientific and technology-related occupations engaged in addressing the effects of climate change.

21. Please specify whether disaster risk reduction and climate change policies and programmes also include measures to ensure that women are not subjected to discrimination when accessing livelihood support following disasters and that they are protected from gender-based violence in evacuation centres, adequately represented in disaster preparedness and response structures and taught to swim and climb from early childhood. Please also indicate whether the State party ensures that humanitarian assistance includes all items necessary for sexual and reproductive health, including female hygiene items.

Marriage and family relations

22. Please provide a time frame for the amendment of the Marriage Act 1973 to raise the minimum age of marriage for girls from 16 to 18 years and to require the full, prior and free consent of the individual (para. 62). Please provide details on the legislative provisions and mechanisms in place, including amendments made to the Matrimonial Property Act 1991/92 and the Administration Act 1969 and the enactment of the family law bill, to ensure, upon the dissolution of de facto marriages, the equitable division of marital property and that women obtain child support (paras. 63–64).